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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,030	11/17/2003	Alain Friboulet	16773-002001 / B4852AF-AD	5572
26161	7590	10/08/2004	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			HARLE, JENNIFER I	
			ART UNIT	PAPER NUMBER

1654

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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10052004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Please see attached communication. Thank you.

Examiner Jennifer Harle

DETAILED ACTION

Claims 1-23 were pending. Claims 1-23 were subject to an Election/Restriction Requirement. Applicants' elected Group I with traverse but failed to select a specific compound as required on page 9 of the Restriction Requirement.

Election/Restrictions

Applicant's election with traverse of Group I in the reply filed on September 10, 2004 is acknowledged. The traversal is on the ground(s) that there is no burden to search the additional Groups II-VI and VIII because they fall within the same classification. This is not found persuasive because the examiner has shown that the inventions in Groups I-VIII are unrelated, i.e. are not disclosed as capable of use together and have different modes of operation, different functions, or different effects (MPEP 806.04, MPEP 808.01) and this was not traversed by Applicants'. Applicants' traversal is that because of the same classification no serious search burden is imposed. However, the examiner clearly set forth that each compound does not have a core structure required of any of the others, that the search for one Group, even one compound, would not be required for the other and that the searches are divergent because of the automation searching requiring literature, patent and internet, as well as, structure and/or sequence searches of multiple databases with multiple synonyms and key word searches, i.e. a serious burden for the examiner to examine on the merits. Moreover, Group I alone was drawn to a substrate of an enzyme or an analogue thereof, inhibitor or activator of a catalytic antibody. According to Applicants' specification alone there are a plethora of the catalytic antibodies, see pp. 2-5, i.e. catalytic antibodies have many applications ... vast range of specificity of antibodies and their involvement in the processes of acquired immunity, allergies and autoimmunity, the interest in

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providing in vivo production of catalytic antibodies ... catalytic antibodies for treatment of infections by gram-negative bacteria ... catalytic antibody by dint of immunizing a mammal with a hapten, etc. and the substrate of an enzyme would be particular to the catalytic enzyme as they form a stereospecific interaction as would any analogue¹, which would be structurally different from the enzyme itself, as would an inhibitor or an activator thus resulting in the many different compounds, i.e. thousands in Group I alone that do not even require a core structure as set forth on page 9 or even a similar function as the catalytic antibodies play roles in a plethora of diseases and treatments, i.e. Herpes virus infections, rheumatoid arthritis, cocaine addiction, beta-lactamase activity, allergens, etc. (See Examples 1-5). Finally, because of the plethora of compounds embraced by the enzyme substrate or an analogue thereof, or inhibitor or activator, the potential necessity of various structure searches and varying literature and/or sequence searches, as previously set forth and clarified above, a serious burden is imposed on the examiner to perform a complete search of the defined areas and the specific compound as set forth on page 9. Therefore, because of the reasons given above, the restriction set forth is proper and not to restrict would impose a serious burden in the examination of this application.

Thus, as shown and clarified above, a serious burden is imposed on the examiner to search Group I alone and a single compound as required on page 9. However, Applicants' are

¹ An analog is a compound (or molecule) that is a (chemical) structural derivative of a "parent" compound and the word is also used to describe a molecule which may be structurally similar (but not identical) to another, and which exhibits many or some of the same biological functions of the other (encompassing derivative would encompass addition, substitution and deletion analogs of natural and unnatural amino acids, as well as modifications to side chains, etc. and would result in a plethora of compounds that would not necessarily have any common core. See Biotechterms.org, analogue, 2001, <http://biotechterms.org/sourcebook/saveidretrieve.php3?id=99>, printed September 20, 2004, pg. 1.

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not responsive to the entire Restriction requirement as they failed to select a particular compound as set forth on page 9.

The reply filed on September 10, 2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicants failed to select a specific composition under the Restriction Requirement as set forth on page 9 due to the burdensome nature of the search to the examiner as previously set forth and more fully clarified. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

The requirement is still deemed proper and is therefore made FINAL.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I. Harle whose telephone number is (571) 272-2763. The examiner can normally be reached on Monday through Thursday, 6:30 am to 5:00 pm,.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campbell can be reached on (571) 272-0974. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer Ione Harle
October 5, 2004

A handwritten signature in black ink, appearing to read 'M. Meller', with a long horizontal flourish extending to the right.

MICHAEL MELLER
PRIMARY EXAMINER